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PUC PROJECT NO. 51840

**RULEMAKING ESTABLISHING
ELECTRIC WEATHERIZATION
STANDARDS**

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**BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS**

**LCRA TRANSMISSION SERVICES CORPORATION'S COMMENTS ON THE
PROPOSAL FOR PUBLICATION FOR NEW 16 TAC § 25.55**

TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:

LCRA Transmission Services Corporation (LCRA TSC) respectfully submits the following comments to the Proposal for Publication (PFP) for New 16 TAC § 25.55 as Approved at the August 26, 2021 Work Session and published in the *Texas Register* on September 10, 2021.

I. EXECUTIVE SUMMARY

- The Commission should not adopt the term “cold weather critical component” or the proposed definition. “Cold weather critical component” is not a term that makes sense to apply to weatherization activities for transmission service providers (TSPs), who do not own or operate “units” that are at risk to trip, experience a derate, or fail to start in the same sense as generating facilities.
- Subsection (h) of the PFP exceeds the authority granted to the Commission under Senate Bill 3 and should be deleted in its entirety.
- The Commission should make other conforming changes to subsection (f) of the PFP for improved clarity and to bring the rule in line with the requirements of Senate Bill 3.

II. COMMENTS BY SECTION

Subsection (b) Definitions

The PFP proposes a new term, “cold weather critical component,” that does not make sense to apply to a TSP or to the facilities that a TSP owns and operates. Transmission facilities are not “units” that “fail to start” or trip as a result of freezing weather conditions in the same sense as power plants. Rather than try to force a global definition intended to capture all types of facilities subject to Senate Bill 3’s weatherization requirements, the rule should instead focus on the specific actions and conduct that TSPs should engage in to avoid adverse reliability consequences resulting from severe weather. In fact, each of the substantive requirements that are proposed to apply to a TSP in subsection (f) can be adopted without reference to the term “cold weather critical components.” For these reasons, the Commission should not adopt the proposed term “cold weather critical components” and the associated definition, nor should it apply that definition to TSPs.

Subsection (f) Weather emergency preparedness reliability standards for a transmission service provider

As discussed above, the rule should not refer to “cold weather critical components” in requiring TSPs to take preparations to avoid the effects of winter weather, as the proposed definition of “cold weather critical components” only creates confusion as applied to transmission facilities. The concept that the rule should focus on specific types of equipment that are susceptible to failing as a result of freezing conditions can be incorporated into subsection (f), without having to rely on the definition proposed in subsection (b)(1).

In addition, section (f)(1)(A) should be revised because it proposes to require a TSP to “ensure” a specific performance outcome, which is neither appropriate nor consistent with the plain language of Senate Bill 3. What Senate Bill 3 actually requires is that a TSP “implement

measures to prepare [its] facilities to maintain service quality and reliability during a weather emergency,”¹ rather than “ensure” any specific level of performance. To align the rule language with Senate Bill 3, and to avoid the problems associated with applying the term “cold weather critical component” in this ill-suited context, the Commission should revise the language of subsection (f)(1)(A) as follows:

- (A) ~~All preparations necessary to ensure the sustained operation of all cold weather critical components~~ **Implement measures to prepare the provider’s facilities that are susceptible to failing as a result of freezing conditions to operate** during winter weather conditions, including ensuring availability of supplies, such as chemicals, auxiliary fuels, and other materials, and personnel required to operate the transmission system and facilities;

Similar conforming changes should be made to the remaining provisions of subsection (f)(1) to better capture the idea that components susceptible to failure as a result of freezing conditions should be specifically accounted for by the TSP’s preparatory actions. And, like the revisions necessary to bring subsection (f)(1)(A) into alignment with Senate Bill 3, subsection (f)(1)(C) should also eliminate reference to “all actions necessary to prevent a reoccurrence” of a prior equipment issue. A rule that requires a TSP to take “all actions necessary” to prevent a weather-related equipment failure is unreasonably broad and exceeds the Commission’s statutory authority under Senate Bill 3. Senate Bill 3 does not allow the Commission to impose a performance mandate; instead, it permits the Commission to require a transmission provider to “implement measures to prepare [its] facilities.” Preparation—as the Commission has repeatedly pointed out—is not the same as requiring performance at any cost.

The Commission should revise these provisions of the subsection (f)(1) as follows:

- (B) Confirmation of the ability of all systems and subsystems containing ~~cold weather critical~~ components **susceptible to failure as a result of freezing conditions** required to operate each of the transmission service provider’s substations to ensure operation

¹ PURA § 38.075(a).

of each substation within the design and operating limitations addressed in subparagraph (1)(H) of this paragraph.

- (C) All ~~actions necessary~~ **reasonable preparations within the transmission service provider's control designed** to prevent a reoccurrence of ~~any cold weather critical component~~ **an equipment** failure that occurred between November 30, 2020 and March 1, 2021;

For consistency with its proposed revisions, LCRA TSC also suggests the following revision to subsection (f)(1)(H):

- (H) Determination of minimum design temperatures; **or** minimum operating temperatures; **and or** other operating limitations based on temperature, precipitation, humidity, wind speed, and wind direction for substations containing ~~cold weather critical~~ components **susceptible to failure as a result of freezing conditions.**

Subsection (h) Weather-related failures by a transmission service provider to provide service

The PFP proposes language applicable to TSPs that mirrors its proposal for providers of generation service that experience repeated or major weather-related outages. However, Senate Bill 3 does not authorize the Commission to impose such requirements on a TSP, because the directive that it included for generators is conspicuously absent for TSPs. When, as here, a statute is silent on a subject, it must be presumed that the Legislature purposefully excluded that language. *Hogan v. Zoanni*, 627 S.W.3d 163, 166 (Tex. 2021) (citing *Cameron v. Terrell & Garrett, Inc.*, 618 S.W.2d 535, 540 (Tex. 1981)). If the Legislature intended the same oversight to apply to TSPs, it could easily have drafted the same provisions as it included for providers of generation service. The Commission must give effect to the Legislature's decision to exclude this language for TSPs. Subsection (h) from the PFP should be stricken in its entirety because it is contrary to the plain language of Senate Bill 3.

III. CONCLUSION AND PRAYER

LCRA TSC appreciates the Commission's diligence in working to develop a weatherization rule that adheres to the Legislature's directives in Senate Bill 3 and asks that the Commission make the changes identified in these comments to ensure that the final rule is clear, effective, and capable of being implemented.

Respectfully submitted,

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